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4 **BEFORE THE INSURANCE COMMISSIONER**  
5 **OF THE STATE OF CALIFORNIA**  
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| <p>7 In the Matter of the Licenses and<br/>8 Licensing Rights of:</p> <p>9 CALIFORNIA AUTOMOBILE<br/>10 INSURANCE COMPANY, MERCURY<br/>11 CASUALTY COMPANY and<br/>12 MERCURY INSURANCE COMPANY,</p> <p>13 Respondents.</p> | <p>7 <b>STIPULATION AND WAIVER</b></p> <p>8</p> <p>9 File Nos. UPA 2007-00019<br/>10 File No. UPA 2007-00013<br/>11 File No. UPA 2007-00015<br/>12 File No. UPA 2007-00020<br/>13 OAH No. N2007070985<br/>14 OAH No. N2007090572</p> |
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16 RESPONDENTS CALIFORNIA AUTOMOBILE INSURANCE COMPANY,  
17 MERCURY CASUALTY COMPANY, and MERCURY INSURANCE COMPANY  
18 (collectively "Respondents") and the CALIFORNIA DEPARTMENT OF INSURANCE  
19 ("Department") stipulate as follows:

20 WHEREAS, Respondents currently are, and at all times relevant were, insurers licensed  
21 to conduct various classes of insurance in California and were conducting insurance business in  
22 California; and

23 Whereas, on July 27, 2007, and on September 24, 2007, the Department issued Orders to  
24 Show Cause and Statements of Charges/Accusations to Respondents (hereafter "OSC" or  
25 "OSCs"), and which are incorporated herein by reference; and

26 Whereas, the Department maintains that the OSC allegations are true and constitute  
27 grounds for the Commissioner to impose civil penalties and/or issue to Respondents orders to  
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1 cease and desist from engaging in those methods, acts, or practices found to be unfair, deceptive  
2 and in violation of the provisions of the California Insurance Code; and

3 Whereas Respondents deny the OSC allegations; deny that they are in violation of the  
4 Insurance Code and regulations, and maintain that no fine or penalty is due and owing; and

5 Whereas, the Department and Respondents have discussed issues regarding (1)  
6 Respondents' claims handling practices violations as set forth in the OSCs and (2) the "Trend  
7 Review" of Respondents made for the period January 1, 2004 to December 31, 2005; and

8 Whereas, Respondents have advised the Department that they have implemented various  
9 measures to ensure compliance with the Insurance Code and the Department's regulations; and

10 Whereas, the Department and Respondents believe it is in the public interest to resolve all  
11 matters arising out of the OSCs and the Trend Review without the need for formal hearings and  
12 further administrative action;

13 NOW, THEREFORE, with respect to the matters stated herein, the Department and  
14 Respondents agree as follows:

15 A. Respondents waive the right to a hearing and any and all rights that Respondents  
16 may be entitled to pursuant to Chapter 5, Part 1, Division 3, Title 2 of the California Government  
17 Code.

18 B. This Stipulation and Waiver and the terms thereof are intended and are limited to  
19 the resolution of (1) all violations alleged in the OSCs; and (2) all matters contained in, under  
20 and/or referenced in the Trend Review.

21 However, nothing contained in this Stipulation and Waiver shall be construed or  
22 interpreted to prevent or bar the Department from initiating enforcement action(s) against  
23 Respondents, jointly and or severally, for alleged violation(s) of the Insurance Code and/or  
24 violations of the Department's regulations issued on or after January 1, 2004, that are not  
25 included in the OSCs and the Trend Review. In addition, nothing contained herein shall be  
26 construed or interpreted to impact, in any way, any other action pending at this time against  
27 Respondents by the Department.

28 C. Respondents agree that the Commissioner may, pursuant to California Insurance

1 Code section 12921(b)(4), issue an order against Respondents, and each of them, jointly and  
2 severally, for a total amount of fifty thousand dollars (\$50,000.00) in costs of the Department in  
3 bringing this enforcement action and future costs of the Department to ensure compliance with  
4 the settlement

5 D. Respondents agree that the Commissioner may, pursuant to California Insurance  
6 Code section 790.035, issue an order against Respondents, and each of them, jointly and  
7 severally, for a civil penalty in the total amount of two hundred fifty thousand dollars  
8 (\$250,000).

9 E. Respondents agree that the Commissioner may, pursuant to California Insurance  
10 Code section 790.035, issue an order against Respondents, and each of them, jointly and  
11 severally, for a civil penalty in the total amount of two hundred thousand dollars (\$200,000),  
12 payment of which is to be suspended and is not to be paid unless Respondents fail to meet the  
13 performance condition measure set forth in paragraph F below. In the event Respondents meet  
14 or exceed this performance condition measure, any obligation to pay the amount referenced in  
15 this paragraph E (\$200,000) shall be extinguished and nullified.

16 F. The performance condition measure for determining whether the \$200,000  
17 amount referenced in paragraph E will be paid to the Department by Respondents is as follows:  
18 The average justified complaint ratio in the three (3) years comprising the 2007 Auto Consumer  
19 Complaint Study results, a copy of which is attached as Exhibit "A," compiled by the  
20 Department for calendar years 2004, 2005, and 2006, listing all justified complaints issued to  
21 each Respondent company resulting from auto claims handling requests for assistance filed with  
22 the Department's Claims Services Bureau, will establish the baseline ("Baseline") against which  
23 Respondents' performance is to be measured. The average auto complaint ratio that will serve as  
24 the Baseline is 3.2. If the data for the calendar year ending December 31, 2008, show that  
25 Respondents jointly achieve a 15% (fifteen percent) or more Baseline reduction in the justified  
26 complaint ratio, then Respondents shall not make the \$200,000 payment. Conversely, if the data  
27 for the calendar year ending December 31, 2008 show that Respondents jointly failed to achieve  
28 a Baseline reduction of at least 15% in the auto justified complaint ratio, then Respondents shall

1 pay the \$200,000 to the Department. Respondents do not waive their right to contest any  
2 justified complaint determination or finding made by the Department which serves as a basis for  
3 the Department's calculation of Respondents' joint justified complaint ratio for the calendar year  
4 ending December 31, 2008.

5 G. All payments that are to be made pursuant to the terms of this Stipulation shall be  
6 payable to the State of California and mailed to the California Department of Insurance, Division  
7 of Accounting, 300 Capital Mall, 13<sup>th</sup> Floor, Sacramento, California 95814, within thirty (30)  
8 days of receipt of an invoice from the Department.

9 H. Among the training and claims handling procedures employed by Respondents,  
10 Respondents circulate written materials to claims personnel advising them of the Fair Claims  
11 Settlement Practices Regulations (10 Cal. Code Regs., § 2695.1 et seq.), provide instructional  
12 presentations on the Fair Claims Settlement Regulations, and provide personal instruction on the  
13 Fair Claims Settlement Regulations.

14 I. Respondents acknowledge that if they violate any of the terms or conditions of  
15 this Stipulation and Waiver or any order issued pursuant thereto, the Commissioner may bring  
16 disciplinary action against Respondents to enforce their terms in such manner as may be  
17 authorized by law.

18 J. Respondents acknowledge that this Stipulation and Waiver is a public record  
19 under California Government Code § 11517(d), and that it and any orders issued pursuant thereto  
20 are open to public inspection pursuant to California Public Records Act, California Government  
21 Code § 6250 et seq. In addition, pursuant to California Insurance Code § 12968, the Stipulation  
22 and Waiver and any orders issued pursuant thereto will be posted on the Department's public  
23 web site.

24 K. Respondents acknowledge that California Insurance Code § 12921 requires the  
25 Insurance Commissioner to personally approve the final settlement of this matter, and that both  
26 the settlement terms and conditions contained herein and the acceptance of those terms and  
27 conditions are contingent upon the Commissioner's personal approval.

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Dated: June 5, 2008

BARGER & WOLEN  
Attorneys for Mercury Insurance Group

By [Signature]  
Steven Weinstein, Esq.  
Approved as to form only

Dated: June 6, 2008

STEVE POIZNER  
Insurance Commissioner

By [Signature]  
Cindy A. Ossias  
Senior Staff/Counsel  
Approved as to form only

**CALIFORNIA CONSUMER COMPLAINT STUDY - 2007**  
**50 LARGE AUTOMOBILE INSURERS LICENSED TO CONDUCT BUSINESS IN CALIFORNIA**  
**RATIO for COMPLAINT YEARS - 2004, 2005 and 2006**

| '06 Rank | CO. Name  | 2006<br>Approx.<br>Exposure<br>Count | Justified<br>Complaint<br>Ratio |      |      | Number<br>of Justified<br>Complaints |      |      |
|----------|---|--------------------------------------|---------------------------------|------|------|--------------------------------------|------|------|
|          |   |                                      | 2006                            | 2005 | 2004 | 2006                                 | 2005 | 2004 |
| 1        | CALIF. CASUALTY INDEMNITY EXCHANGE (THE)                | 149,688                              | 0.7                             | 1.9  | 0.0  | 1                                    | 3    | 0    |
| 2        | WAWANESA GENERAL INS. CO.                               | 291,306                              | 0.7                             | 0.7  | 0.8  | 2                                    | 2    | 2    |
| 3        | WAWANESA MUTUAL INS. CO. (THE)                          | 107,497                              | 0.9                             | 0.0  | 0.9  | 1                                    | 0    | 1    |
| 4        | UNITED SERVICES AUTOMOBILE ASSOCIATION                  | 425,030                              | 1.2                             | 1.9  | 0.5  | 5                                    | 8    | 2    |
| 5        | STATE FARM MUTUAL AUTOMOBILE INS. CO.                   | 2,927,730                            | 1.2                             | 1.6  | 1.5  | 36                                   | 45   | 43   |
| 6        | ALLSTATE INDEMNITY CO.                                  | 1,450,144                            | 1.4                             | 1.8  | 1.5  | 20                                   | 24   | 18   |
| 7        | INTERINS. EXCHANGE OF THE AUTOMOBILE CLUB OF SO. CALIF. | 1,995,000                            | 1.4                             | 1.6  | 1.1  | 28                                   | 31   | 20   |
| 8        | CALIF. STATE AUTOMOBILE ASSOCIATION INTER-INS. BUREAU   | 1,775,345                            | 1.5                             | 2.4  | 0.9  | 27                                   | 43   | 17   |
| 9        | USAA CASUALTY INS. CO.                                  | 384,742                              | 1.6                             | 0.8  | 0.8  | 6                                    | 3    | 3    |
| 10       | ALLIED PROPERTY AND CASUALTY INS. CO.                   | 114,410                              | 1.7                             | 5.4  | 3.7  | 2                                    | 6    | 4    |
| 11       | VIKING INS. CO. OF WISCONSIN                            | 217,557                              | 1.8                             | 4.1  | 2.6  | 4                                    | 10   | 7    |
| 12       | PROGRESSIVE WEST INS. CO.                               | 292,908                              | 2.0                             | 5.6  | 4.0  | 6                                    | 14   | 9    |
| 13       | AMCO INS. CO.   | 145,904                              | 2.1                             | 1.6  | 1.6  | 3                                    | 2    | 2    |
| 14       | MERCURY INS. CO.  | 1,546,940                            | 2.2                             | 2.7  | 2.6  | 34                                   | 40   | 36   |
| 15       | ALLSTATE INS. CO.                                       | 538,247                              | 2.2                             | 3.1  | 3.0  | 12                                   | 18   | 18   |
| 16       | 21ST CENTURY INS. CO.                                   | 1,246,979                            | 2.4                             | 3.6  | 2.5  | 30                                   | 51   | 36   |
| 17       | CALIF. AUTOMOBILE INS. CO.                              | 165,592                              | 2.4                             | 3.4  | 2.8  | 4                                    | 5    | 4    |
| 18       | LIBERTY MUTUAL FIRE INS. CO.                            | 285,996                              | 2.4                             | 2.7  | 3.7  | 7                                    | 7    | 8    |
| 19       | EXPLORER INS. CO.                                       | 78,952                               | 2.5                             | 2.5  | 1.5  | 2                                    | 1    | 1    |
| 20       | MERCURY CASUALTY CO.                                    | 413,390                              | 2.7                             | 4.9  | 3.8  | 11                                   | 21   | 16   |
| 21       | PROGRESSIVE CHOICE INS. CO.                             | 254,026                              | 2.8                             | 3.9  | 5.8  | 7                                    | 8    | 9    |
| 22       | KEMPER INDEPENDENCE INS. CO.                            | 66,853                               | 3.0                             | 3.2  | 4.0  | 2                                    | 2    | 2    |
| 23       | ANCHOR GENERAL INS. CO.                                 | 62,627                               | 3.2                             | 3.1  | 2.6  | 2                                    | 2    | 1    |
| 24       | PERMANENT GENERAL ASSURANCE CORPORATION                 | 80,133                               | 3.7                             | 5.0  | 6.5  | 3                                    | 4    | 5    |
| 25       | AMEX ASSURANCE CO.                                      | 183,867                              | 3.8                             | 4.8  | 5.9  | 7                                    | 8    | 8    |
| 26       | FARMERS INS. EXCHANGE                                   | 1,630,248                            | 4.0                             | 4.9  | 4.8  | 65                                   | 95   | 95   |
| 27       | QBE INS. CORPORATION                                    | 83,747                               | 4.8                             | 5.1  | 5.4  | 4                                    | 4    | 3    |
| 28       | MERITPLAN INS. CO.                                      | 62,516                               | 4.8                             | 0.0  | 0.0  | 3                                    | 0    | 0    |
| 29       | GOVERNMENT EMPLOYEES INS. CO.                           | 208,070                              | 4.8                             | 4.0  | 1.5  | 10                                   | 8    | 3    |
| 30       | NATIONAL GENERAL INS. CO.                               | 204,548                              | 4.9                             | 4.9  | 2.5  | 10                                   | 10   | 5    |
| 31       | GEICO GENERAL INS. CO.                                  | 365,110                              | 4.9                             | 4.1  | 2.0  | 18                                   | 13   | 6    |
| 32       | STANDARD FIRE INS. CO. (THE)                            | 98,009                               | 5.1                             | 11.8 | 7.6  | 5                                    | 11   | 7    |
| 33       | HUDSON INS. CO.   | 160,421                              | 5.6                             | 11.0 | 39.8 | 9                                    | 15   | 30   |
| 34       | HARTFORD CASUALTY INS. CO.                              | 83,866                               | 6.0                             | 5.8  | 6.7  | 5                                    | 4    | 4    |
| 35       | NATIONWIDE MUTUAL INS. CO.                              | 98,804                               | 6.1                             | 7.4  | 5.2  | 6                                    | 8    | 6    |
| 36       | COAST NATIONAL INS. CO.                                 | 277,131                              | 6.1                             | 9.1  | 9.6  | 17                                   | 31   | 39   |
| 37       | HARTFORD UNDERWRITERS INS. CO.                          | 200,991                              | 6.5                             | 9.0  | 6.3  | 13                                   | 17   | 11   |
| 38       | GEICO INDEMNITY CO.                                     | 135,934                              | 6.6                             | 4.5  | 5.2  | 9                                    | 5    | 5    |
| 39       | MID-CENTURY INS. CO.                                    | 392,532                              | 6.6                             | 5.8  | 0.0  | 26                                   | 1    | 0    |
| 40       | GEICO CASUALTY CO.                                      | 43,325                               | 6.9                             | 13.2 | 2.9  | 3                                    | 5    | 1    |
| 41       | ESURANCE PROPERTY AND CASUALTY INS. CO.                 | 95,328                               | 7.3                             | 8.4  | 2.3  | 7                                    | 5    | 1    |
| 42       | WESTERN UNITED INS. CO.                                 | 94,150                               | 7.4                             | 6.5  | 3.7  | 7                                    | 7    | 4    |
| 43       | FINANCIAL INDEMNITY CO.                                 | 86,099                               | 8.1                             | 15.3 | 15.0 | 7                                    | 15   | 17   |
| 44       | UNITRIN DIRECT INS. CO.                                 | 46,188                               | 8.7                             | 9.8  | 15.6 | 4                                    | 4    | 4    |
| 45       | METROPOLITAN DIRECT PROPERTY AND CASUALTY INS. CO.      | 103,798                              | 9.6                             | 4.1  | 10.8 | 10                                   | 4    | 9    |
| 46       | GRANITE STATE INS. CO.                                  | 326,227                              | 10.1                            | 16.2 | 12.6 | 33                                   | 40   | 24   |
| 47       | INFINITY INS. CO.                                       | 569,171                              | 10.2                            | 14.1 | 9.9  | 58                                   | 73   | 46   |
| 48       | SAFECO INS. CO. OF AMERICA                              | 152,767                              | 10.5                            | 4.5  | 4.1  | 16                                   | 15   | 13   |
| 49       | LINCOLN GENERAL INS. CO.                                | 95,395                               | 19.9                            | 44.2 | 43.9 | 19                                   | 29   | 32   |
| 50       | AMERICAN INTERNATIONAL INS. CO. OF CALIF., INC.         | 72,078                               | 34.7                            | 18.1 | 10.9 | 25                                   | 18   | 6    |

NOTE: Complaint Ratio is based on the number of Justified Complaints to 100,000 Earned Exposures.